



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Supreme Court Adopts Changes to Code of Judicial Ethics

San Francisco—The California Supreme Court today announced that the justices unanimously adopted amendments to the California Code of Judicial Ethics based upon the recommendations of the court's Advisory Committee on the Code of Judicial Ethics, chaired by Associate Justice Richard D. Frybel, Court of Appeal, Fourth Appellate District, Division Three. Under the California Constitution, the Supreme Court adopts the California Code of Judicial Ethics, which establishes standards for ethical conduct for state judges on and off the bench and for candidates for judicial office.

Among the topics addressed by the amendments are campaign contributions in judicial elections; conduct by candidates for judicial office, including incumbent judges; ex parte communications; definitions of impartiality, integrity, impropriety, and independence; and disqualification of judges who make extrajudicial statements committing themselves to reach a particular result. The changes, which take effect January 1, 2013, were adopted by the court at a special administrative conference on October 30, 2012.

The amended code, which is applicable to all members of the judiciary, is available on the California Courts website at <http://www.courts.ca.gov/documents/final-revisions-2012-w-interlineations-2.pdf>. This link shows the code with deletions and insertions indicated. A clean version of the code is available at <http://www.courts.ca.gov/documents/final-revisions-2012-clean-version-final-11-6-12.pdf>.

Chief Justice Tani Cantil-Sakauye praised the advisory committee's report, stating, "The entire court is grateful to the committee for its excellent work and for the depth of its analysis of the issues. The court appreciates the diligent, thoughtful, and thorough review undertaken by the members of the committee. The revisions improve the code significantly and provide additional guidance for judges regarding conduct both on and off the bench."

At the request of the court, the committee performed the first comprehensive review of the code since the court adopted the code in 1996. In December 2009, the Commission for Impartial Courts (CIC), appointed to consider ways to strengthen the court system, improve public trust and confidence in the judicial branch, and ensure impartiality and accountability, submitted its

final report to the Judicial Council. Associate Justice Ming Chin chaired the CIC. The council referred all recommendations relating to the Code of Judicial Ethics to the Supreme Court, which then referred them to its advisory committee. In 2007, the American Bar Association had adopted a revised Model Code of Judicial Conduct, which the CIC analyzed before making its final recommendations, as did the committee.

During the past three years, the advisory committee thoroughly examined the existing code and considered a variety of issues, including the recommendations from the CIC, the revised model code, and cases and authorities bearing on the questions to which the code has application. The committee twice invited public comment on its proposed revisions and carefully reviewed comments from a wide range of individuals and entities. The California Judges Association and the Commission on Judicial Performance submitted comments that were particularly helpful to the committee. Individual judicial officers and attorneys, the American Bar Association, the Los Angeles County Superior Court, the Alliance of California Judges, and others also provided useful comments.

The majority of the advisory committee's recommended amendments were based upon the recommendations of the CIC and the revisions to the ABA model code.

The core tenets underlying the amendments are to promote public confidence in and to ensure the integrity and impartiality of the judiciary, and to provide useful guidance to California's judicial officers and candidates for judicial office as they serve on the bench or stand for election.

Accordingly, for example, the revisions address the manner of disclosure of campaign contributions by trial judges, required by Code of Civil Procedure section 170.1(a)(9)(C), and the disqualification of an appellate justice who receives a campaign contribution of \$5,000 or more from a litigant or lawyer appearing before the justice. The disclosure provisions, contained in canons 3E(2)(b) and (c), address the nature, manner, and timing of those disclosures. Disqualification of appellate justices is addressed in new canon 3E(5)(j).

In other amendments concerning the election process, the court adopted new canon 5B(3), which requires judicial candidates, including incumbents, under specified conditions, to complete a judicial campaign ethics course before the election. Another canon—canon 5B(2)—now requires judicial candidates to review and approve the content of all campaign statements and materials produced by the candidate's campaign committee.

Other amendments to the code contain important clarifications, including:

Settlement conferences. New canon 3B(12) addresses settlement conferences, cautioning judges against engaging in conduct that may be perceived as coercive. The commentary to the canon

lists factors a judge may consider in determining whether to conduct a settlement conference in a case in which the judge will preside over the trial.

Gifts, honoraria, and reimbursements. Canon 4D(6), which addresses the acceptance by judges of gifts, honoraria, and reimbursements, has been reorganized so that the general exceptions to the prohibition against accepting gifts—such as gifts from relatives and friends—are listed first, followed by the more specific exceptions, such as reimbursements for the cost of travel and gifts incidental to a public testimonial. The revisions also clarify the types of gifts judges may accept.

Ex parte communications. Canon 3B(7), which addresses ex parte communications, defines that term and clarifies the circumstances under which a judge may engage in such communications.

Disqualification of judges who make statements committing themselves to a particular result. New canon 3E(3)(a) provides that a judge is disqualified if the judge has made a statement that a person aware of the facts might reasonably believe commits the judge to reach a particular result or rule in a particular way in a proceeding.

Comments by judges on pending cases. The commentary to canon 3B(9), which addresses the issue of judges commenting on pending cases, has been amended to clarify the circumstances under which judges may comment on pending cases and to caution judges about complying with other canons when making such comments.

Definitions. The code now includes definitions of terms central to the judicial role, including impartiality, integrity, impropriety, and independence. These definitions are consistent with the adoption of similar definitions in the revised ABA model code.

Members of the Advisory Committee on the Code of Judicial Ethics are Associate Justice Richard D. Fybel of the Court of Appeal, Fourth Appellate District, Division Three (chair); Presiding Justice Barbara J. R. Jones of the Court of Appeal, First Appellate District, Division Five; Associate Justice Laurence D. Rubin of the Court of Appeal, Second Appellate District, Division Eight; Judge Ronni B. MacLaren of the Superior Court of Alameda County; Judge David Rothman of the Superior Court of Los Angeles County (Ret.); Judge Brian Walsh of the Superior Court of Santa Clara County; and Ms. Beth J. Jay, Principal Attorney to the Chief Justice of California. In addition, Judge Teresa Estrada-Mullaney of the Superior Court of San Luis Obispo County (Ret.) was a member of the committee until her retirement in December 2011. Mark Jacobson of the Administrative Office of the Courts Legal Services Office provided staff assistance.

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